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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,575	10/24/2003	Dany Sylvain	7000-281	9071
27820 7590 11/01/2007 WITHROW & TERRANOVA, P.L.L.C. 100 REGENCY FOREST DRIVE SUITE 160 CARY, NC 27518			EXAMINER DEANE JR, WILLIAM J	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/692,575.

Applicant(s)

SYLVAIN, DANY

Examiner

William J. Deane

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 19-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 8, 10 – 11, 15 – 25, 27, 28, 31 - 32 and 34 – 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Sands (U.S. Patent No. 6,631,188)

Regarding claim 1, Sands teaches a method for selectively controlling the provision of a call waiting alert in response to an incoming call when a user is participating in an active call, comprising:

receiving an incoming call indication indicative of an incoming call intended for a user's telephone terminal (Fig. 5, 130);

determining whether to provide a call waiting alert to the user's telephone terminal based on a call waiting rule set, which is customized for the user (Fig. 5, 136);
and

providing an instruction instructing a telephony switch whether to provide the call waiting alert to the user's telephone terminal (Fig. 5, 138 or 148, see also Col. 4, line 6 – Col. 5, line 24).

Art Unit: 2614

Regarding claim 2, Sands further teaches the method comprising receiving information indicating the user is engaged in the active call (column 3, lines 59-67).

Regarding claim 3, Sands further teaches the method comprising receiving identifying information identifying a party with whom the user is engaged in the active call (column 6, lines 13-17).

Regarding claim 4, Sands further teaches the method comprising receiving information indicating that the user is no longer participating in the active call (column 6, lines 50-53).

Regarding claim 5, Sands further teaches the method wherein the instruction is adapted to instruct the telephony switch to provide the call waiting alert (column 6, lines 13-17).

Regarding claim 6, Sands further teaches the method wherein the instruction is adapted to instruct the telephony switch to forward the incoming call to a voicemail system for the user (column 4, lines 2-5).

Regarding claim 7, Sands further teaches the method wherein the instruction is adapted to instruct the telephony switch to send a busy signal to a caller initiating the incoming call (column 6, lines 43-47).

Regarding claim 8, Sands further teaches the method comprising receiving customizing information from the user to customize the call waiting rule set for the user (column 6, lines 17-27).

Art Unit: 2614

Regarding claim 10, Sands further teaches the method wherein the customizing information is received from a telephony terminal via an interactive voice response system (column 6, lines 17-27).

Regarding claim 11, Sands further teaches the method wherein the call waiting rule set is customized such that providing the call waiting alert is based at least in part on information identifying a caller initiating the incoming call (column 4, lines 49-57).

Regarding claims 16 and 31, such a limitation is inherent in Sands.

Regarding claim 17, Sands further teaches the method wherein the call waiting rule set is customized such that providing the call waiting alert is based at least in part on previous callers (column 3, lines 27-33).

Regarding claim 18, Sands further teaches the method wherein the incoming call indication is received from the telephony switch (column 4, lines 5-10).

Regarding claims 19-25, 27, 28, 32 and 34-36, the limitations of the claims are rejected for the same reasons as set forth in the rejection of claims 1-8, 10, 11, 15, 17 and 18 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 15 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sands (U.S. Patent No. 6,631,188) in view of Bushnell (U.S. Patent No. 6,519,335).

Sands teaches the claimed limitations as shown above except the method wherein the call waiting rule set is customized such that providing the call waiting alert is based at least in part on a relative priority or urgency associated with the incoming call. However, Bushnell teaches that such is known in the art (see the Abstract of Bushnell). It would have been obvious to one of ordinary skill to have incorporated such relative priority or urgency associated with an incoming call as taught by Bushnell into the Sands device as such would only entail a small programming addition to the caller ID table of Sands.

Claims 9, 12-14, 26, 29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sands and Bushnell and further in view of Gurgun (U.S. Patent No. 2002/0141559).

Regarding claims 9 and 26, Sands/Bushnell teach the claimed limitations as seen above except for the use of a packet network. However, Gurgun teaches such at paragraph [0015]. It would have been obvious to one of ordinary skill in the art to have incorporated such use of a packet network as taught by Gurgun into the Sands/Bushnell device as such would only entail the substitution of one well-known network for another. Regarding claims 12, 13, 29 and 30; see paragraphs [0019] - [0023] of Gurgun. Regarding claims 14 and 33, Gurgun further teaches the method and system wherein

Art Unit: 2614

the call waiting rule set is customized such that providing the call waiting alert is based at least in part on a time, date, or combination thereof associated with the incoming call (Fig. 11).

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

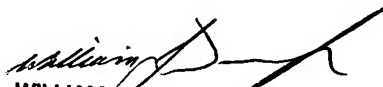
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Application No. 2007/0127660 (Roberts et al.) – note Abstract and Summary.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (571) 273-8300.

20Oct2007


WILLIAM J. DEANE, JR.
PRIMARY EXAMINER